HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI H.L. DATTU, CJ. &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

Writ Appeal No. 08 of 2007

APPELLANT PETITIONER — Jaiprakash Pathak, S/o Late Vidyadhar, Pathak, Aged about 29 years, R/o Village Bauripara, Near Temple, P.O. Ambikapur, Distt. Surguja (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through : Principle Secretary (Water Resources Department, Irrigation Department, Secretariat, DKS Bhawan, Raipur (CG)
2. State of Madhya Pradesh, Through : Principle Secretary (Water Resources Department, Irrigation Department, Secretariat, Vallabh Bhawan, Bhopal (M.P.)
3. Chief Engineer, Hasdeo Kachhar, (Water Resources Department) Irrigation Department, Bilaspur (CG)
4. Superintending Engineer, Shyam Barnai Project, (Water Resources Department) Irrigation Department, P.O. Ambikapur Distt. Surguja (C.G.)
5. Executive Engineer, Barnai Canal Division, (Water Resources Department) Irrigation Department, P.O. Ambikapur Distt. Surguja (C.G.)

Present: Shri Manoj Paranjpe and Shri V.A. Goverdhan, counsel for the appellant.
Shri N.K. Agrawal, Dy. A.G. for the State.

ORAL ORDER

(Passed on 03rd April, 2007)

The following oral order of the Court was passed by

H.L. Dattu, CJ.

Though the matter is listed for orders on default, with the consent of learned counsel appearing for the parties, the matter is taken up for final hearing.

(2) This is the third round of litigation by the appellant before this Court. On an earlier occasion, he was before this Court in W.P. No. 3485 of 2003. The relief sought for by the appellant/petitioner in the said writ petition was to direct the respondents to appoint him on compassionate ground since his father died in harness.

(3) This Court while disposing of the said writ petition by its order dated 23-01-2004 had directed the petitioner to make an appropriate representation before the 2nd respondent in the writ petition and further directed the 2nd respondent to consider the representation filed by the petitioner, in accordance with law. After disposal of the writ petition, the petitioner had filed a representation before the 2nd respondent in the writ petition and that representation was considered by the 2nd respondent by his order dated 04-05-2004. Without questioning the said order, the petitioner was once again before this Court in Writ Petition No.4225 of 2004, yet again praying for a direction to the respondents to appoint the petitioner on compassionate ground.

(4) The learned Single Judge has rejected the writ petition solely on the ground that the petitioner without questioning the correctness or otherwise of the order passed by the respondents dated 04-05-2004, pursuant to the directions issued by this Court in W.P. No. 3485 of 2003, could not sought for the relief for a direction to the respondents to consider his case for appointment on compassionate ground. In our view, the learned Single Judge is wholly justified in rejecting the writ petition at the preliminary hearing itself. The reason being, as we

have already stated that the petitioner was before this Court in the first writ petition and a direction that was sought for by him was to direct the respondents to appoint him on compassionate ground. This Court did not give the relief sought for by the petitioner, but only permitted the petitioner to make appropriate representation before the 2nd respondent in the writ petition. After disposal of the writ petition, the order was passed by the respondents. If for any reason, the petitioner was aggrieved by the order passed by the respondents, he should have questioned the correctness or otherwise of the order passed by the respondents dated 04-05-2004 and he could not have merely asked this Court to issue a direction to the respondents to appoint the petitioner on compassionate ground.

(5) In that view of the matter, we do not see any error in the order passed by the learned Single Judge. Therefore, the writ appeal requires to be rejected and it is rejected. However, we reserve liberty to the appellant, if he so desires, to question the correctness or otherwise of the order passed by the 3rd respondent herein dated 04-05-2004, before appropriate forum. Ordered accordingly.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice